

Title 17: Rights of Persons with Developmental Disabilities

§50510.

Each person with a developmental disability, as defined by this subchapter, is entitled to the same rights, protections, and responsibilities as all other persons under the laws and Constitution of the State of California, and under the laws and the Constitution of the United States. Unless otherwise restricted by law, these rights may be exercised at will by any person with a developmental disability. These rights include, but are not limited to, the following:

(a) Access Rights.

- (1) A right to treatment and habilitation services. Treatment and habilitation services shall foster the developmental potential of the person. Such services shall protect the personal liberty of the individual and shall be provided under conditions which are the least restrictive necessary to achieve the purposes of treatment.
- (2) A right to dignity, privacy, and humane care.
- (3) A right to participate in an appropriate program of publicly-supported education, regardless of the degree of handicap.
- (4) A right to religious freedom and practice, including the right to attend services or to refuse attendance, to participate in worship or not to participate in worship.
- (5) A right to prompt and appropriate medical care and treatment.
- (6) A right to social interaction and participation in community activities.
- (7) A right to physical exercise and recreational opportunities.
- (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse or neglect. Medication shall not be used as punishment, for convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.
- (9) A right to be free from hazardous procedures.
- (10) A right to advocacy services, as provided by law, to protect and assert the civil, legal, and service rights to which any person with a developmental disability is entitled.
- (11) A right to be free from discrimination by exclusion from participation in, or denial of the benefits of, any program or activity which receives public funds solely by reason of being a person with a developmental disability.
- (12) A right of access to the courts for purposes including, but not limited to the following:
 - (A) To protect or assert any right to which any person with a developmental disability is entitled;
 - (B) To question a treatment decision affecting such rights, once the administrative remedies provided by law, if any, have been exhausted;
 - (C) To inquire into the terms and conditions of placement in any community care or health facility, or state hospital, by way of a writ of habeas corpus, and
 - (D) To contest a guardianship or conservatorship, its terms, and/or the individual or entity appointed as guardian or conservator.

(b) Personal Rights. Each person with a developmental disability who has been admitted or committed to a state hospital, community care facility, or health facility shall have rights which include, but are not limited to, the following:

- (1) To keep and be allowed to spend one's own money for personal and incidental needs.
- (2) To keep and wear one's own clothing.
- (3) To keep and use one's own personal possessions, including toilet articles.
- (4) To have access to individual storage space for one's private use.

- (5) To see visitors each day.
- (6) To have reasonable access to telephones, both to make and receive confidential calls, and to have calls made for one upon request.
- (7) To mail and receive unopened correspondence and to have ready access to letter-writing materials, including sufficient postage in the form of United States postal stamps.
- (8) To refuse electroconvulsive therapy ("ECT").
- (9) To refuse behavior modification techniques which cause pain or trauma.
- (10) To refuse psychosurgery. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes:
 - (A) Modification or control of thoughts, feelings, actions, or behavior rather than treatment of a known and diagnosed physical disease of the brain.
 - (B) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.
 - (C) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thought, feelings, actions, or behavior.
- (11) Other rights as specified by administrative regulations of any federal, state, or local agency.

(c) Rights of State Hospital Residents. In addition to all of the other rights provided for in this subchapter, each person with a developmental disability who resides in a state hospital shall be accorded the following rights:

- (1) If involuntarily detained, to have access to a current and up-to-date copy of the California Welfare and Institutions Code. This right includes the right to have assistance from the Clients' Rights Advocate in the reading and understanding of the Code.
- (2) To give or withhold consent for treatments and procedures, in the absence of a judicial order or other provision of law which provides for the exercise of this right to devolve to another party.
- (3) To be provided with the amount of funds specified in Welfare and Institutions Code Section 4473 for personal and incidental use if, following the initial thirty (30) days of state hospital residency, the person is not receiving an amount of income for such use which is equal to or greater than the amount authorized by Section 4473.

Note

Authority cited: Section 11152, Government Code. Reference: Sections 4423, 4473, 4503 and 4504, Welfare and Institutions Code.

Consumer Name

Consumer Signature

Date